Supreme Court, U.S.
FILED

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No.

IN THE
Supreme Court of the
United States

CHARLES ERNEST HILL,
Petitioner,

v.

WILLIAM J. CLINTON, *ET AL.*,
Respondents.

On Petition For A Writ Of Certiorari Before Judgment From The Court Of Appeals For The Ninth Circuit

PETITION FOR A WRIT OF CERTIORARI

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70 pp

QUESTIONS PRESENTED

1. Whether the nine Justices of the United States Supreme Court must recuse or disqualify themselves from this case, and recuse or disqualify themselves retroactively from the two cases related thereto, ***Bush v. Palm Beach Canvassing Board,*** ___ U.S. ___, 121 S.Ct. 471 *(2001)* and ***Bush v. Gore***, ___ U.S. ___, 121 S.Ct. 525 (2001) in order to comply with Due Process.

2. Whether the counting of the Electoral votes on January 6, 2001 complied with the U.S. Constitution, federal election laws 3 U.S.C. §§ 1-20, and Due Process.

3. Whether the United States Court of Appeal for the Ninth Circuit has subject matter jurisdiction.

4. Whether a presidential candidate has standing to request an Accounting pursuant to Article I, section 9, clause 7 of the U.S. Constitution.

5. Whether subsequent to the filing of the Notice of Appeal, the entry of dismissal by the United States District Court Judge Gary L. Taylor violated the Divestiture Rule and Due Process.

6. Whether the U.S. Supreme Court can have their own security force to protect the Judicial Branch and officers of the court from unreasonable interference from the Executive Branch.

7. Whether Rule 1 of the Supreme Court Rules is unconstitutional and violates Due Process.

PARTIES TO THE PROCEEDING

The following individuals and entities are parties to the proceeding in the court below:

Petitioner: Charles Ernest Hill

Respondents:

Executive Branch

William J. Clinton, in his capacity as President of the United States of America; Albert Gore; and The United States of America.

Legislative Branch

The United States Senate; Spencer Abraham; Daniel Akaka; Wayne Allard; John Ashcroft; Max Baucus; Evan Bayh; Robert Bennett; Joseph Biden Jr.; Jeff Bingaman; Christopher Bond; Barbara Boxer; John Breaux; Sam Brownback; Richard Bryan; Jim Bunning; Conrad Burns; Robert Byrd; Ben Nighthorse Campbell; Lincoln Chafee; Max Cleland; Thad Cochran; Susan Collins; Kent Conrad; Larry Craig; Mike Crapo; Thomas Daschle; Mike Dewine; Christopher Dodd; Pete Domenici; Byron Dorgan; Richard Durbin; John Edwards; Mike Enzi; Russell Feingold; Dianne Feinstein; Peter Fitzgerald; William Frist; Slade Gorton; Bob Grahm; Phil Gramm; Rod Grams; Chuck Grassley; Judd Gregg; Charles Hagel; Tom Harkin; Orrin Hatch; Jesse Helms; Ernest Hollings; Tim Hutchinson; Kay Bailey Hutchinson; James Inhofe; Daniel Inouye; James Jeffords; Tim Johnson; Edward Kennedy; Robert Kerry; John Kerry; Herb Kohl; Jon Kyl; Mary Landrieu; Frank Lautenberg; Patrick Leahy; Carl Levin; Joseph Lieberman; Blanche Lincoln; Trent Lott; Richard

Lugar; Connie Mack; John McCain; Mitch McConnell; Barbara Mikulski; Zell Miller; Daniel Moynihan; Frank Murkowski; Patty Murray; Don Nichols; Jack Reed; Harry Reid; Charles Robb; Pat Roberts; John Rockefeller IV; William Roth Jr.; Rick Santorum; Paul Sarbanes; Charles Schumer; Jeff Sessions; Richard Shelby; Bob Smith; Gordon Smith; Olympia Stone; Arlen Specter; Ted Stevens; Craig Thomas; Fred Thompson; Strom Thurmond; Robert Torricelli; George Voinovich; John Warner; Paul Wellstone; and Ron Wyden.

The United States House of Representatives.

Judicial Branch

The United States Supreme Court;

William Rehnquist; John Paul Stevens; Sandra Day O'Connor; Antonin Scalia; Anthony Kennedy; David Souter; Clarence Thomas; Ruth Bader Ginsburg; and Stephen Breyer.

State of California Judiciary

The California Supreme Court;

Ronald George; Stanley Mosk; Joyce Kennard; Marvin Baxter; Kathryn Werdegar; Ming Chin; and Janice Brown.

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PETITION FOR WRIT OF CERTIORARI

Petitioner Charles Ernest Hill, the unknown candidate for the office of President of the United States, respectfully prays that a writ of certiorari be issued to review the order of the United States Court of Appeals for the Ninth Circuit in this case. Without issuing an opinion, the Ninth Circuit dismissed the case, which denied petitioner Due Process and violated the Fifth Amendment to the United States Constitution.

The 2000 presidential election is still cloudy. Petitioner filed a timely protest as to what occurred in the joint session of Congress during the count of the Electoral votes. The filing of the temporary restraining order (TRO) was an act of constitutional and historical significance. Because petitioner is seeking a TRO to hold the counting of the Electoral votes to be unconstitutional, this case involves issues of utmost *federal* importance which have not been resolved.

This case is the trilogy to the prior U.S. Supreme Court decisions: *Bush v. Palm Beach Canvassing Board,* ___ U.S. ___, 121 S.Ct. 471 *(2000)* and *Bush v. Gore*, ___ U.S. ___, 121 S.Ct. 525 (2000). The three cases involve facts and law (both procedurally and substantively) that are inextricably intertwined. One case cannot be decided without adversely affecting the others. The two previous decisions were decided by writs of certiorari. Hence, at a minimum, this case must too qualify for immediate review based upon the same reasoning.

OPINIONS BELOW

The order of the district court denying the TRO was issued on January 17, 2001. Notwithstanding that a Notice of Appeal was on file, on February 2, 2001, the district court assumed jurisdiction and dismissed the case.

The order of the Ninth Circuit dismissing the case was

issued on March 21, 2001. Petitioner filed a motion for reconsideration on April 4, 2001. The motion for reconsideration was denied by order dated May 23, 2001. However, the court allowed the Notice of Appeal to go forward nunc pro tunc under a new case number (Case No. 01-55919). None of the aforesaid orders or judgment were published.

Rule 11 of the Supreme Court Rules provides that a petition for writ of certiorari can be granted before judgment if the case is of imperative public importance as to justify the deviation from normal appellate practice. This case will decide the outcome of the 2000 Presidential election and meets that high standard.

JURISDICTION

The jurisdiction of this Court rests upon 28 U.S.C. § 1254(1).

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

Article I, section 9, clause 7 of the United States Constitution provides:

> "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time." U.S. Constitution, Art. I, § 9, cl. 7.

The Fifth Amendment to the U.S. Constitution provides in pertinent part: "No person shall . . . be deprived of life, liberty, or property, without due process of law. . . ."

Title 3, Section 8 of the United States Code provides:

> "The electors shall vote for President and Vice President, respectively, in the manner directed by the Constitution." 3 U.S.C. § 8.

Title 3, Section 16 of the United States Code provides in pertinent part:

> "...Such joint meeting shall not be dissolved until the count of electoral votes shall be completed and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any such votes, or otherwise under this subchapter, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided, to direct a recess of such House . . . ." 3 U.S.C. § 16.

Title 3, Section 17 of the United States Code provides:

> "When the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or other question arising in the matter, each Senator and Representative may speak to such objection or question five minutes, and not more than once; but after such debate shall have lasted two hours it shall be the duty of the presiding officer of each House to put the main question without further debate." 3 U.S.C. § 17.

Title 28, Section 455 of the United States Code provides:

> "(a) Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.
> (b) He shall also disqualify himself in the following circumstances:
> (5) He or his spouse, . . .:
> (i) Is a party to the proceeding,. . . ."

28 U.S.C. § 455.

Rule 1 of the Supreme Court Rules provides in pertinent part:

> "1. The Clerk receives documents for filing with the Court and has authority to reject any submitted filing that does not comply with these Rules."

STATEMENT OF THE CASE

This case involved a federal question and the basis for federal jurisdiction in the first instance was 28 U.S.C. § 1331.

On August 31, 2000, petitioner filed a complaint against respondent William J. Clinton and the United States of America for failure to faithfully execute the laws and for an accounting under Article I, section 9, clause 7 of the U.S. Constitution.

On September 10, 2000, petitioner filed a first amended complaint naming additional defendants, including but not limited to, the Vice President Albert Gore, the U.S. Senate, all 100 U.S. Senators individually, the U.S. House of Representatives, the U.S. Supreme Court, and all nine U.S.

Supreme Court Justices individually.

In the first amended complaint, petitioner announced his candidacy for the office of President of the United States. The three viable candidates for President were Albert Gore, Jr., George W. Bush, and petitioner.

Vice President Albert Gore is not a judge or lawyer. In 1969, Gore graduated with a degree in government from the prestigious Harvard University. His senior thesis was "The Impact of Television on the Conduct of the Presidency, 1947-1969." In 1974, he enrolled in the law school at Vanderbilt University with no mention of ever completing the program.

On November 7, 2000, the Presidential election was conducted.

On November 17, 2000, the U.S. Attorneys Office filed a motion to dismiss on behalf of the federal defendants. The motion was contested.

On December 4, 2000, the U.S. Supreme Court issued the opinion *Bush v. Palm Beach Canvassing Board,* ___ U.S. ___, 121 S.Ct. 471 (2001).

On December 12, 2000, the U.S. Supreme Court issued the opinion *Bush v. Gore*, ___ U.S. ___, 121 S.Ct. 525 (2001).

On January 6, 2001, a joint session of Congress was held to count the Electoral votes. During the meeting, Congresswoman Maxine Waters (D-Los Angeles) raised a question regarding the counting of the electoral votes from the State of Florida, filed an objection thereto, and requested a motion to withdraw of the House of Representatives to consider her question.

The President of the Senate, defendant Al Gore, denied Congresswoman Water's question, denied her objection, and denied her motion to withdraw. The count of the Electoral votes proceeded and George W. Bush was declared to be the

winner.

Four days later, on January 10, 2001, petitioner filed an ex parte application for a temporary restraining order (TRO) claiming the counting of the Electoral votes was unconstitutional.

On January 17, 2001, the district court denied the TRO.

On January 26, 2001, petitioner filed a Notice of Appeal with the Ninth Circuit (Case No. 01-55271).

On January 27, 2001, George W. Bush was sworn in as the 43rd President of the United States.

On February 2, 2001, an Order was issued by Judge Gary Taylor dismissing the complaint for lack of subject matter jurisdiction and judgment was entered.

The U.S. Attorney's Office claimed in the motion to dismiss that petitioner's claim that he was attacked by President William J. Clinton was "ludicrous." On February 5, 2001, petitioner filed a motion to open discovery to take a 2-hour deposition of Federal Bureau of Investigation (FBI) Director Louis Freeh. The deposition was to elicit testimony to support petitioner's claim. This motion was denied.

The City of Pasadena is a separate and distinct municipality from the City of Los Angeles. Los Angeles was incorporated as a city in 1850 and Pasadena was incorporated as a city in 1886.

On March 21, 2001, the Pasadena motions panel for the Ninth Circuit, meeting in regular session, issued an order dismissing the case as moot because the underlying case had been dismissed by the district court. On April 4, 2001, petitioner filed a motion for reconsideration.

On May 21, 2001, petitioner filed a pardon re: Timothy McVeigh and John Gotti.

On May 23, 2001, the Pasadena motions panel for the

Ninth Circuit, meeting in regular session, issued an order denying the motion for reconsideration and closed the case. The court reopened a new case nunc pro tunc - Case No. 01-55919.

On May 29, 2001, petitioner filed a motion for suspension of Circuit Rule 27-10 of the Ninth Circuit Rules and FRAP 35 and petition for rehearing en banc to vacate the order of dismissal. The clerk for the Ninth Circuit returned those papers claiming the case was closed.

On June 9, 2001, petitioner attempted to file an emergency motion with the Ninth Circuit to stay the sentence of death of Timothy McVeigh and the clerk for the Ninth Circuit refused to accept the motion for filing.

On June 11, 2001, Timothy McVeigh was executed.

Each year the federal government reports in the annual budget the net revenues collected and not the gross revenues. The difference between the two numbers is the "spread", and that figure is intentionally kept secret and not published.

In June and July 2001, the Clerk of the U.S. Supreme Court rejected petitioner's filing of a writ of certiorari on several occasions claiming the "rules" were not followed.

ARGUMENT

1. Immediate Review Is Necessary Where The U.S. Supreme Court Must Be Disqualified Not Only From This Case But Retroactively From The *Bush v. Gore* Cases.

The nine U.S. Supreme Court Justices became members of this lawsuit on November 17, 2001 when the U.S. Attorney's Office filed a pleading on their behalf. That pleading was a motion to dismiss for lack of subject matter jurisdiction. Petitioner is running for the office of the President

of the United States and included that announcement in the first amended complaint.

Although petitioner is the last American underdog, under the Electoral College system, the Electors can vote for any person - even an unknown candidate such as petitioner. See 3 U.S.C. § 8.

During the counting of the Electoral votes, petitioner observed that the counting of the Electoral votes was irregular and filed an immediate protest with the district court in the form of a temporary restraining order (TRO). Every person ignored this protest and for some strange reason this protest has not been published in any newspaper. [Note: It would be "ludicrous" to think the Executive Branch sealed this case.]

Now that the TRO has finally worked its way through the appeals process, the Court cannot render a decision in this case. The reason is as party defendants in the matter their impartiality can reasonably be questioned. Hence, the nine Justices must recuse or disqualify themselves from this matter pursuant to 28 U.S.C. § 455 subsections (a) and (b)(5)(i).

The fact that the nine Justices are party defendants in this matter does more than affect just one case - it also affects the two previous Presidential 2000 decisions. Fortunately, the rule of disqualification can be applied retroactively to closed cases. See *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 845, 862-866 (1988).

Although the previous *Bush v. Gore* decisions [*Bush v. Palm Beach Canvassing Board*, ___ U.S. ___, 121 S.Ct. 471 *(2001)* and *Bush v. Gore*, ___ U.S. ___, 121 S.Ct. 525 (2001)], were issued in December 2000, and were landmark decisions, these two decisions can be reopened for purposes of disqualification "whenever such action is appropriate to accomplish justice." *Liljeberg* at 863-864.

The U.S. Supreme Court failed to disclose in the two

landmark opinions that it was a party to a related case wherein one of the issues to be determined would be petitioner's claim for the office of the President of the United States. This failure to disclose substantially prejudiced petitioner.

An argument could be made that the Court ruled quickly and as they did to avoid facing this lawsuit. To compound the injustice, petitioner was not included as a party in the two *Bush v. Gore* decisions.

In addition, counsel for defendant Albert Gore had a duty to inform the court in the two *Bush v. Gore* decisions of all related cases regarding the issue of the Presidential election, including the instant case. That disclosure was to take place at the commencement of the case and before the Supreme Court issued any opinions. This failure to disclose by the Gore camp substantially prejudiced petitioner.

Accordingly, under the principles of fundamental fairness and elementary due process, the nine U.S. Justices must recuse themselves from this case and retroactively from the two *Bush v. Gore* decisions. The Court must hear this writ of certiorari and undo the illegitimacy of what has been done.

2. **Immediate Review Is Necessary Where The Presidential Election Is Under Protest.**

A recess from the joint meeting of Congress to count the Electoral votes can be taken whenever a question shall have arisen in regard to the counting of any votes. 3 U.S.C. § 16. Further, the two Houses can separate to decide upon an objection or any other question arising in the matter. 3 U.S.C. § 17.

Here, Congresswoman Maxine Waters (Democrat - Los Angeles) raised her hand with a question. She validly raised the question to the joint session regarding irregularities with the Florida vote. That question triggered the Legislative Power

under the U.S. Constitution.

Second, Congresswoman Waters validly raised an objection to the joint session on the same issue. That objection also triggered the Legislative Power. And when she was denied by the President of the Senate/defendant Albert Gore, she validly filed a motion to withdraw. The question, the objection, and the motion to withdraw were all denied by defendant Gore.

Each of the three denials was unconstitutional. Defendant and Vice President Albert Gore is not a judge - he is not even a lawyer. Since defendant Albert Gore is not the final authority, the certification of the election by him is subject to challenge in court. To make the challenge, petitioner timely filed a TRO to stay the swearing-in ceremony until this issue could be decided. The filing of the TRO was an act of great constitutional significance and public importance. No other Presidential election has been challenged in federal court other than this case.

The district court denied the TRO by minute order without issuing an opinion. Whereupon, petitioner immediately filed a Notice of Appeal. An interlocutory district court order that denies a motion for a preliminary injunction is appealable under 28 U.S.C. § 1292(a)(1).

The Pasadena motions panel for the Ninth Circuit denied the TRO without issuing an opinion and without discussing the constitutional issues raised. This Court must now decide the protest and settle the open constitutional issues.

Although George W. Bush was sworn in as President, no court has ruled on the constitutionality of the Electoral count or the certification thereof. The protest filed in the 2001 Kentucky Derby was decided in minutes. Here, the protest has taken over seven (7) months and is still undecided.

In summary, Congresswoman's Water's hand is still

raised and the 2000 President has not been determined according to the U.S. Constitution, Due Process, and federal law. This Court must now decide the de jure President by hearing this writ of certiorari.

3. **Immediate Review Is Necessary Where The Ninth Circuit Lacks Subject Matter Jurisdiction**

The Ninth Circuit can hold regular sessions in ONLY four locations: (1) San Francisco, (2) Los Angeles, (3) Portland, and (4) Seattle. 28 U.S.C. § 48 (Emphasis added). A court of appeal may regulate practice in a particular case in any manner consistent with federal law. FRAP 47(b).

Notwithstanding, the Ninth Circuit allows a motions panel to meet in regular session in Pasadena even though Pasadena is a distinct city separate and apart from the City of Los Angeles.

The Pasadena motions panel denied petitioner's TRO and dismissed the case. On March 21, 2001, the Pasadena motions panel for the Ninth Circuit, meeting in regular session, issued an order dismissing the case as moot and citing that the underlying case had been dismissed by the district court. On April 4, 2001, petitioner filed a motion for reconsideration.

On May 23, 2001, the Pasadena motions panel for the Ninth Circuit, meeting in regular session, issued an order denying the motion for reconsideration and closed the case. The court then opened a new case nunc pro tunc - Case No. 01-55919.

Since the two regular sessions were not held in Los Angeles, or an approved location under federal law, the Pasadena court acted without subject matter jurisdiction and in a manner inconsistent with federal law. Therefore, pursuant to FRAP 47(b), the issuance of both orders are void as a matter of law. Without jurisdiction, the Pasadena motions panel is a

kangaroo court. To stop the anarchy, dishonesty, incompetency, and arbitrariness of the Ninth Circuit, this Court must hear this writ of certiorari.

4. **Immediate Review Is Necessary Where A Presidential Candidate Has Standing To Request An Accounting**

The U.S. Supreme Court has spoken on the constitutional right to an Accounting. In *U.S. v. Richardson*, 418 U.S. 166 (1974), the Court determined a person acting as a taxpayer did not have standing to request an accounting of federal funds used by the Central Intelligence Agency (CIA) under Art. I, § 9, cl. 7 of the U.S. Constitution. Notwithstanding the foregoing, the Court did not rule out the possibility that another plaintiff - under the right set of circumstances - could have the requisite standing.

Here, the right set of circumstances is before the Court. Petitioner is a candidate for the highest office in the land - the Presidency of the United States. Surely petitioner would be entitled to the same information defendant Albert Gore possesses in regards to the sources of revenue and the "spread" (i.e., the difference between the gross revenues and the net revenues- which amount the government admits is intentionally kept secret and not reflected in the annual budget).

Furthermore, the federal budget is a campaign issue and petitioner is entitled to that information. There is no better way to attack an opponent's public record than to show an abuse in public revenues or public expenditures. More importantly, the public has a fundamental right to know how public funds are collected and disbursed.

The Framers of the Constitution were merchants, farmers, physicians, and lawyers. They never intended that President George Washington would use money from the

public treasury to open businesses and compete directly with private enterprise. This sore, if left untreated, would infect and destroy capitalism.

This Court must decide the issue of standing immediately because standing is an integral part of this appeal. In addition, the Court must decide whether a full and complete Accounting of the public moneys is to be prepared forthwith. Hence, this Court must hear this writ of certiorari.

5. Immediate Review Is Necessary Where The Ninth Circuit Violated The Divestiture Rule

The filing of a Notice of Appeal divests the district court of jurisdiction over those aspects of the case involved on appeal. See *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 54, 58 (1982). Here, subsequent to the filing of the Notice of Appeal with the Ninth Circuit, the district court entered judgment dismissing the case and claimed there was no subject matter jurisdiction. The issuance of that decision by the district court when the Notice of Appeal was pending caused petitioner to be in two courts simultaneously - the district court and the court of appeal.

Constitutional standing is always a threshold inquiry before a court of appeal asserts jurisdiction on appeal. See *Mount Graham Red Squirrel v. Espy*, 986 F.2d 1568, 1581 (9th Cir. 1993)(citing *City of South Lake Tahoe v. California Tahoe Regional Planning Agency*, 625 F.2d 231, 233 (9th Cir. 1980); see also *Children's Healthcare Is A Legal Duty v. Deters*, 92 F.3d 1412 (6th Cir. 1996)(Batchelder *concurring opinion*).

The Ninth Circuit has the ball and the lower court cannot take it away from them. As a matter of law in the Ninth Circuit, standing was an issue to be determined on appeal by the appellate court. Therefore, the district court was divested of jurisdiction on the issue of standing. The dismissal of the

case by the district court, based upon a finding of no standing, was void. Continuing with the logic, the Notice of Appeal was not moot, and the Ninth Circuit's decision to affirm the lower court's dismissal must be reversed.

This Court must uphold the divestiture rule, due process, and plaintiff's right to be protected by the Fifth Amendment, and immediately review the decision to dismiss the temporary restraining order. The Court must accept this writ of certiorari.

6. **Immediate Review Is Necessary Where The Executive Branch Unreasonably Interferes With The Judicial Branch And Officers Of The Court**

An attorney is an officer of the court. Like the court itself, an attorney is also an instrument to advance the ends of justice. See *Theard v. U.S.*, 354 U.S. 278, 281 (1957).

Petitioner is an attorney and an officer of two federal courts: the U.S. District Court Southern District of California and the U.S. District Court of the District of Nevada. This means petitioner is an instrument of justice and an indirect member of the Judicial Branch of government.

Petitioner claims that the Executive Branch, when headed up by former President William J. Clinton's regime, attacked petitioner. The Executive Branch claimed in its moving papers for the motion to dismiss that this allegation was ludicrous. During the pendency of the appeal, petitioner requested a 2-hour deposition of Federal Bureau of Investigation (FBI) Director Louis Freeh to support his contention. The district court denied the request.

President Clinton can no more attack petitioner than he can smack Justice Ruth Bader Ginsburg. No one is above the law. As far as the Executive Branch's Machiavellian conduct is concerned, petitioner is an Untouchable. Even though

President Clinton is no longer in office, he can still be impeached for divestiture of his remaining rights, privileges, interests, and powers that are derived from being the former President of the United States.

The U.S. Supreme Court must protect the instruments of justice at all times from unreasonable interferences from other branches of government. Otherwise, there can be no justice.

Technology is constantly improving. When science is allowed to or gets ahead of the law, justice can be stamped out. Fortunately, the rule of law can make even the meanest dog heal. Accordingly, this Court must accept this writ of certiorari to stop the unlawful and unwarranted abuses of the Executive Branch upon officers of the court.

7. Immediate Review Is Necessary Where Rule 1 of the Supreme Court Rules Is Unconstitutional And Violates Due Process

The byzantine system of procedural rules required to be followed prior to the acceptance of any document for filing with the Supreme Court is an unreasonable burden on fundamental rights and due process. As a general rule, the law looks to substance over form. However in this case, just the opposite occurs. Unless the form is perfect, with all the i's dotted and t's crossed, the document is never accepted for filing.

This barrier to entry is enforced by the Clerk to the U.S. Supreme Court rigorously no matter what constitutional arguments are raised in the documents. See Rule 1 of the Supreme Court Rules. Pursuant to the U.S. Constitution and due process, there can be no unreasonable barriers to justice.

Further, in the Real World, the Clerk has more power

than the U.S. Supreme Court. This fact is true because he sits on the high tribunal chair and only the Clerk decides what documents are filed - not the nine Justices.

Under the American system of justice, the Clerk cannot be the guardian to the gates of justice for that violates all forms of due process. With the Clerk in charge of all filings, and not the Supreme Court, the key to the last door can never be found.

Here, petitioner sought to file a writ of certiorari. The Clerk sent back to petitioner on several occasions the original filings of the writ claiming the "rules" were not followed. Countless dollars were spent trying to comply with the "rules."

The Rules are nothing more than the full employment act for the printers in Washington, D.C. For example on the binding rule, is that stitch one or carry two? In this case, the strict enforcement of the "rules" is unreasonable and prevents the vindication of petitioner's rights. The Framers of the Constitution never intended that a citizen would have to climb a mountain of "rules" in order to receive justice.

Like thousands of cases that have come before the Clerk and were categorically rejected, this case too was rejected. As a consequence, the outcome of the Presidential election remains in constitutional limbo and undecided.

Moreover, if the Clerk were to not accept this writ of certiorari, the constitutional issues raised in the papers will never be heard. Such conduct violates the common law.

Without access to the courts, there can be no constitutional rights especially when access is denied to the highest Court in the land. Hence, for no other reason than to amend the Rules, the Court must accept this writ of certiorari.

CONCLUSION

The U.S. Supreme Court said it best:

> "When contending parties invoke the process of the courts, however, it becomes our unsought responsibility to resolve the federal and constitutional issues the judicial system has been forced to confront." *Bush v. Gore*, ___ U.S. ___, 121 S.Ct. 525, 533 (2001).

Like a picture on the wall, this case is a classic confrontation between the Powers of Good represented by Security, Harmony, Peace, Charity, and Defense of Virtue versus the Powers of Evil represented by Corruption, Slander, Deceit, and Despotic Power.

Petitioner and the Green Knight awaits the King's best knight on the field of battle.

The Eye of Providence is upon us.

In a mad, mad, mad, mad world - the treasure is beneath the "W".

Dated: 8/06/01

Submitted by:

Charles E. Hill

Charles E. Hill

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APPENDIX

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I.

ORDER ENTERED IN U.S. DISTRICT COURT

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Issuing Court:	United States District Court Central District of California
Judge:	Honorable Judge Gary Taylor
Case No.:	SACV 00-0859-GLT(RC)
Date of Order: Date of Entry:	January 17, 2001 January 18, 2001
By Minute Order Proceedings [In Chambers]:	Order Denying Plaintiff's Application for a Temporary Restraining Order

"Plaintiff's Application for a Temporary Restraining Order is DENIED. Plaintiff has not shown a likelihood of success on the merits."

II.

JUDGMENT ENTERED IN U.S. DISTRICT COURT

Caption: Charles Ernest Hill, Plaintiff, v. William J. Clinton, in his capacity as President of the United States of America; Albert Gore; The United States of America; Spencer Abraham; Daniel Akaka; Wayne Allard; John Ashcroft; Max Baucus; Evan Bayh; Robert Bennett; Joseph Biden Jr.; Jeff Bingaman; Christopher Bond; Barbara Boxer; John Breaux; Sam Brownback; Richard Bryan; Jim Bunning; Conrad Burns; Robert Byrd; Ben Nighthorse Campbell; Lincoln Chafee; Max Cleland; Thad Cochran; Susan Collins; Kent Conrad; Larry Craig; Mike Crapo; Thomas Daschle; Mike Dewine; Christopher Dodd; Pete Domenici; Byron Dorgan; Richard Durbin; John Edwards; Mike Enzi; Russell Feingold; Dianne Feinstein; Peter Fitzgerald; William Frist; Slade Gorton; Bob Grahm; Phil Gramm; Rod Grams; Chuck Grassley; Judd Gregg; Charles Hagel; Tom Harkin; Orrin Hatch; Jesse Helms; Ernest Hollings; Tim Hutchinson; Kay Bailey Hutchinson; James Inhofe; Daniel Inouye; James Jeffords; Tim Johnson; Edward Kennedy; Robert Kerry; John

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Issuing Court:	United States District Court Central District of California
Judge:	Honorable Judge Gary Taylor
Case No.:	SACV 00-0859-GLT(RC)
Date of Entry:	February 5, 2001
File Stamp:	ENTERED CLERK U.S. DISTRICT COURT FEB - 5 2001 CENTRAL DISTRICT OF CALIFORNIA BY _____ DEPUTY

JUDGMENT

"Pursuant to the Order of the Court approving the findings, conclusions and recommendations of United States Magistrate Judge Rosalyn M. Chapman,

IT IS ADJUDGED that Judgment be entered dismissing the action for lack of subject matter jurisdiction."

DATED: February 1, 2001

S/ Gary L. Taylor
GARY L. TAYLOR
UNITED STATES
DISTRICT JUDGE

III.

ORDER ENTERED IN U.S. DISTRICT COURT

Caption: Charles Ernest Hill, Plaintiff, v. William J. Clinton, in his capacity as President of the United States of America; Albert Gore; The United States of America; Spencer Abraham; Daniel Akaka; Wayne Allard; John Ashcroft; Max Baucus; Evan Bayh; Robert Bennett; Joseph Biden Jr.; Jeff Bingaman; Christopher Bond; Barbara Boxer; John Breaux; Sam Brownback; Richard Bryan; Jim Bunning; Conrad Burns; Robert Byrd; Ben Nighthorse Campbell; Lincoln Chafee; Max Cleland; Thad Cochran; Susan Collins; Kent Conrad; Larry Craig; Mike Crapo; Thomas Daschle; Mike Dewine; Christopher Dodd; Pete Domenici; Byron Dorgan; Richard Durbin; John Edwards; Mike Enzi; Russell Feingold; Dianne Feinstein; Peter Fitzgerald; William Frist; Slade Gorton; Bob Grahm; Phil Gramm; Rod Grams; Chuck Grassley; Judd Gregg; Charles Hagel; Tom Harkin; Orrin Hatch; Jesse Helms; Ernest Hollings; Tim Hutchinson; Kay Bailey Hutchinson; James Inhofe; Daniel Inouye; James Jeffords; Tim Johnson; Edward Kennedy; Robert Kerry; John

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Issuing Court:	United States District Court Central District of California
Judge:	Honorable Magistrate Judge Rosalyn M. Chapman
Case No.:	SACV 00-0859-GLT(RC)
Date of Order: Date of Entry:	February 8, 2001 February 9, 2001
By Minute Order Proceedings [In Chambers]:	PLAINTIFF'S EX PARTE APPLICATION FOR LEAVE TO CONDUCT DEPOSITION OF FBI DIRECTOR LOUIS J. FREEH

"In light of the entry of judgment dismissing the complaint and action, plaintiff's ex parte application is denied as moot. Furthermore, even if it were not moot, plaintiff has failed to show good cause for permission to conduct such discovery and has failed to comply with the procedures for an ex parte application, set forth in Local Rule 7.18."

IV.

ORDER ENTERED IN THE COURT OF APPEAL FOR THE NINTH CIRCUIT

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Caption:	CHARLES ERNEST HILL, Plaintiff-Appellant, v. WILLIAM J. CLINTON, et al., Defendants-Appellees.
Issuing Court:	United States Court of Appeal For The Ninth Circuit Pasadena Motions Panel
Judges:	Honorable Circuit Judges Clifford J. Wallace, Barry G. Silverman and William A. Fletcher
Case No.:	No. 01-55271 DC# CV-00-00859-GLT Central California (Los Angeles)

ORDER

Date of Entry: FILED
March 21, 2001
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

Before: WALLACE, SILVERMAN and W. FLETCHER, Circuit Judges

> "A review of the record demonstrates that, on February 5, 2001, the district court entered final judgment in this action. Consequently, this preliminary injunction appeal is dismissed as moot. See *Planned Parenthood of Central and Northern Arizona v. State of Arizona*, 718 F.2d 938, 949 (9th Cir. 1983)(district court's entry of final judgment renders pending appeal from preliminary injunction moot)."

V.

ORDER ENTERED IN THE COURT OF APPEAL FOR THE NINTH CIRCUIT

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Caption:	CHARLES ERNEST HILL, Plaintiff-Appellant, v. WILLIAM J. CLINTON, et al., Defendants-Appellees.
Issuing Court:	United States Court of Appeal For The Ninth Circuit Pasadena Motions Panel
Judges:	Honorable Circuit Judges Clifford J. Wallace, Barry G. Silverman and William A. Fletcher
Case No.:	No. 01-55271 DC# CV-00-00859-GLT Central California (Los Angeles)

ORDER

Date of Entry: FILED
May 23, 2001
CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

Before: WALLACE, SILVERMAN and W. FLETCHER, Circuit Judges

"Appellant's motion for reconsideration of this court's March 21, 2001 order dismissing this appeal for lack of jurisdiction is denied. Appellant's motion for disqualification is denied.

Because appellant's March 12, 2001 amended notice of appeal was filed within 60 days from entry of the February 2, 2001 final judgment, the March 12, 2001 amended notice of appeal is construed as a new notice of appeal from the judgment. See *Rabin v. Cohen*, 570 F.2d 864, 866 (9th Cir. 1978)(standards for construing document as notice of appeal). The Clerk shall forward appellant's March 12, 2001 amended notice of appeal to the district court, who shall file the amended notice of appeal nunc pro tunc as a timely notice of appeal from the judgment.

No motions for reconsideration, rehearing, modification, clarification, stay of mandate or other submissions shall be filed or entertained in this closed docket."

VI.

NOTICE OF APPEAL

UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION
FILE NUMBER SA-CV-00-859 GLT (RC)

Caption: CHARLES ERNEST HILL,

Plaintiff,

v.

WILLIAM J. CLINTON, et al.,

Defendants.

Date of Notice: January 26, 2001
Date of Filing: January 26, 2001

"Notice is hereby given that CHARLES E. HILL, plaintiff in the above named case, hereby appeals to the United States Court of Appeals for the Ninth Circuit from an order denying the temporary restraining order to restrain and enjoin the federal defendants from unconstitutionally (1) declaring the result of the count of the Electoral votes; (2) swearing in the President Elect on the 20th day of January, 2001; and (3) swearing in the Vice-President Elect on the 20th of January, 2001 entered in this action on January 18, 2001.[Fn 1][Fn 2]

Plaintiff seeks an expedited appeal under Federal Rules of Appellate Procedure Rule 2."

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Footnote 1: Thank you for the poison "popper" on Monday, January 22, 2001, which affected the multi-tasking of the brain and central nervous system for 72 hours. This formula should indeed be patented for its unknown side effect - it stimulates hair growth and removes gray hair. Et tu Marcus?

Footnote 2: Speaking of patents, perchlorate is found in the drinking water of Southern California. One drop of perchlorate can cause hyperthyroidism (i.e., rapid heart rate and sudden and irrational behavior) - a defense to any criminal charge (the "Perky" defense). Release Charlie Chaplin.

VII.

ORDER ENTERED IN U.S. DISTRICT COURT

Caption: Charles Ernest Hill, Plaintiff, v. William J. Clinton, in his capacity as President of the United States of America; Albert Gore; The United States of America; Spencer Abraham; Daniel Akaka; Wayne Allard; John Ashcroft; Max Baucus; Evan Bayh; Robert Bennett; Joseph Biden Jr.; Jeff Bingaman; Christopher Bond; Barbara Boxer; John Breaux; Sam Brownback; Richard Bryan; Jim Bunning; Conrad Burns; Robert Byrd; Ben Nighthorse Campbell; Lincoln Chafee; Max Cleland; Thad Cochran; Susan Collins; Kent Conrad; Larry Craig; Mike Crapo; Thomas Daschle; Mike Dewine; Christopher Dodd; Pete Domenici; Byron Dorgan; Richard Durbin; John Edwards; Mike Enzi; Russell Feingold; Dianne Feinstein; Peter Fitzgerald; William Frist; Slade Gorton; Bob Grahm; Phil Gramm; Rod Grams; Chuck Grassley; Judd Gregg; Charles Hagel; Tom Harkin; Orrin Hatch; Jesse Helms; Ernest Hollings; Tim Hutchinson; Kay Bailey Hutchinson; James Inhofe; Daniel Inouye; James Jeffords; Tim Johnson; Edward Kennedy; Robert Kerry; John

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Issuing Court:	United States District Court Central District of California
Judge:	Honorable Judge Gary Taylor
Case No.:	SACV 00-0859-GLT(RC)
Date of Order:	February 2, 2001
Date of Entry:	February 5, 2001

ORDER ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

"Pursuant to 28 U.S.C. § 636, the Court has reviewed the First Amended Complaint and other papers along with the attached Report and Recommendation of United States Magistrate Judge Rosalyn M. Chapman, and plaintiff's objections, and has made a de novo determination.

IT IS ORDERED that (1) the Report and Recommendation is approved and adopted; (2) Judgment shall be entered dismissing this action for lack of subject matter jurisdiction; and (3) the federal defendants' request for Rule 11 sanctions is denied without prejudice.

IT IS FURTHER ORDERED that the Clerk shall serve copies of this Order, the Magistrate Judge's Report and

Recommendation and Judgment by the United States mail on the parties."

DATED: February 1, 2001

S/ Gary L. Taylor
GARY L. TAYLOR
UNITED STATES
DISTRICT JUDGE

VIII.

REPORT AND RECOMMENDATION OF A UNITED STATES MAGISTRATE JUDGE

Caption: Charles Ernest Hill, Plaintiff, v. William J. Clinton, in his capacity as President of the United States of America; Albert Gore; The United States of America; Spencer Abraham; Daniel Akaka; Wayne Allard; John Ashcroft; Max Baucus; Evan Bayh; Robert Bennett; Joseph Biden Jr.; Jeff Bingaman; Christopher Bond; Barbara Boxer; John Breaux; Sam Brownback; Richard Bryan; Jim Bunning; Conrad Burns; Robert Byrd; Ben Nighthorse Campbell; Lincoln Chafee; Max Cleland; Thad Cochran; Susan Collins; Kent Conrad; Larry Craig; Mike Crapo; Thomas Daschle; Mike Dewine; Christopher Dodd; Pete Domenici; Byron Dorgan; Richard Durbin; John Edwards; Mike Enzi; Russell Feingold; Dianne Feinstein; Peter Fitzgerald; William Frist; Slade Gorton; Bob Grahm; Phil Gramm; Rod Grams; Chuck Grassley; Judd Gregg; Charles Hagel; Tom Harkin; Orrin Hatch; Jesse Helms; Ernest Hollings; Tim Hutchinson; Kay Bailey Hutchinson; James Inhofe; Daniel Inouye; James Jeffords; Tim Johnson;

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Issuing Court:	United States District Court Central District of California
Judge:	Honorable Magistrate Judge Rosalyn M. Chapman
Case No.:	SACV 00-0859-GLT(RC)
Date of Order: Date of Entry:	January 16, 2001 January 16, 2001

REPORT AND RECOMMENDATION OF A UNITED STATES MAGISTRATE JUDGE

This Report and Recommendation is submitted to the Honorable Gary L. Taylor, United States District Judge, by Magistrate Judge Rosalyn M. Chapman, pursuant to the provisions of 28 U.S.C. § 636 and General Order 194 of the United States District Court for the Central District of California.

BACKGROUND

I

On November 17, 2000, the federal defendants filed a motion to dismiss plaintiff's First Amended Complaint under Rule 12(b)(1), for lack of subject matter jurisdiction, and under Rule 12(b)(6), for failure to state a claim on which relief can be granted. The plaintiff filed an opposition to the motion on December 11, 2000, and the defendants filed a reply on December 19, 2000.

II

On August 31, 2000, plaintiff Charles Ernest Hill, an attorney representing himself pro se, filed a complaint against defendants the United States of America ("United States"), William J. Clinton in his capacity as President of the United States of America, and Does 1-10 claiming generally that defendants have failed to faithfully execute the laws. [FN 1] On October 10, 2000, plaintiff filed a First Amended Complaint ("FAC") adding as defendants Vice-President Albert Gore, the United States Senate and its senators, the United States House of Representatives, the United States Supreme Court and its justices, and the California Supreme Court and its justices, and claiming that the defendants have violated various constitutional provisions. The plaintiff notes that "[t]his lawsuit would not have been required if [d]efendants the United States Supreme court and [Supreme Court justices], the Judicial Branch of the federal government - the most powerful of the three branches [-] had used their inherent powers and reigned in the out of control and anarchous [sic] Executive Branch of the federal government. Instead, they did nothing, looked the other way, and turned from God." FAC, ¶ 68.

In his first cause of action against all defendants, [FN 2] plaintiff alleges the ongoing "Commission of Acts of Insurrection and Rebellion," in violation of Article VI of the Constitution and the Fourteenth Amendment, due to defendants' failure for the past 136 years to "return [to the Catholic Church] the pastural [sic] and agricultural lands belonging to the missions" (FAC, ¶¶ 32-33); and that defendants Clinton, Gore and the United States "intentionally attack[ed]" him in 1999-2000, because plaintiff "questioned" their actions in keeping "secret from much of the general

public" that the mission lands should be returned to the Catholic Church (FAC, ¶¶ 35-36). The plaintiff also alleges that defendants Clinton, Gore and the United States "have intentionally classified the official inquiries into this matter as top secret and confidential and not subject to public dissemination pursuant to the Classified Information Procedures Act [("CIPA")]" (FAC, ¶ 38); and that all defendants, thus, "have been unjustly enriched in that they have been allowed to remain in office and avoid prosecution" (FAC, ¶ 39).

In his second cause of action against defendants United States, Clinton, Gore, the United States Senate and its senators, and the United States House of Representatives, [FN 3] plaintiff claims that the defendants have violated the constitutional right, under Article I, § 9 of the United States Constitution, to have a "a 'regular' statement and account of the receipts and expenditures of all public money . . . published form time to time." (FAC, ¶ 48). Specifically, plaintiff alleges that, since 1949, "the government financial statements" issued by the aforementioned defendants "have a hole in them the exact size and scope of which is presently unknown" (FAC, ¶ 53), but which includes "secret and unauthorized funds . . . used by [Central Intelligence Agency ("CIA")] front companies for oppression of members of the American middle class and to destroy the four basic American principles: freedom, democracy, due process, and capitalism" (FAC, ¶ 55); and that "[f]ormer President Gerald R. Ford admitted . . . that . . . [t]he United States of America funded a secret program called Operation Chaos to conduct drug experiments on human guinea pigs within the United States of America," and such "individuals selected were called 'dissidents' and were secretly subjected to cruel and unusual punishment. . . ." (FAC,

¶¶ 58-60).

To remedy the constitutional violations set forth in his first cause of action, plaintiff seeks: (1) "injunctive relief and a protective order to halt further attacks by all defendants against [him]" (FAC, ¶ 37); (2) restitution and punitive damages in an amount of $22 trillion, and $1 trillion "for each day any of the Defendants and Does 1-10 remain in office" (FAC, ¶ 40); (3) that defendant Clinton "shall be impeached and removed from office" (FAC, ¶ 41); (4) that "defendants Gore, Senators, [Supreme Court justices], and [California Supreme Court justices] shall be removed from office immediately" (FAC, ¶ 42); (5) that "defendants Gore and Lieberman are barred from seeking election to the office of President and Vice-President, respectively" (FAC, ¶ 43); (6) " the return of all mission lands to the Catholic Church and a constructive trust be placed over all mesne profits from said mission lands" (FAC, ¶ 44); (7) reimbursement for attorney's fees incurred by plaintiff (FAC, ¶ 45); and (8) by filing this complaint, plaintiff "[formally] announces his intention to run for the Office of President of the United States . . . [and i]n the event this announcement is prevented by Defendants from being made public, Plaintiff seeks an additional 1 trillion dollars in restitution for each day this unconstitutional act continues" (FAC, ¶ 46).

To remedy the constitutional violations set forth in his second cause of action, plaintiff seeks: (1) " an injunction . . . releasing all criminals held in federal [and California] jails who were denied access to the list of guinea pigs, and [these persons] shall be given a new trial only upon the occasion when there is a full, complete and adequate disclosure" of whether he/she was a victim of government experiments (FAC, ¶¶ 62-63); (2) "[a]n injunction . . . mandating that no federal funds

shall be released until an audit is completed under this Court's supervision of the government accounting systems for the time period 1949 to the present, and corrected government financial statements released to the American public" (FAC, ¶ 64); (3) "the appointment of a receiver to supervise the receipts and expenditures of all public money" (FAC, ¶ 65); (4) that "the CIA must be disbanded as a government agency and all federal funds cut off [to it] . . . [, and its] employees . . . once debriefed for disclosure of all illegal activities committed against middle-class Americans, will be either jailed or allowed to remain in this country as American citizens; however, their names will be kept on a list as 'dissidents' and all of their activities will be subject to court-monitored supervision" (FAC, ¶ 66); and (5) reasonable attorney's fees (FAC, ¶ 67).

DISCUSSION

III

Rule 12(b)(1) authorizes a court to dismiss a complaint for lack of subject matter jurisdiction. "A motion to dismiss for lack of subject matter jurisdiction may either attack the allegations of the complaint [on its face] or may be made as a 'speaking motion' attacking the existence of subject matter jurisdiction in fact." Thornhill Publishing Co. v. General Tel. & Electronics, 594 F.2d 730, 733 (9th Cir. 1979); White v. Lee, 227 F.3d 1214, 1242 (9th Cir. 2000). When a motion to dismiss attacks the complaint on its face, the court must consider the allegations of the complaint as true. Federal Deposit Ins. Corp. v. Nichols, 885 F.2d 633, 636 (9th Cir. 1989); Roberts v. Corrothers, 812 F.2d 1173, 1177 (9th Cir. 1987); Societe de Conditionnement en Aluminum v. Hunter Engineering Co., Inc., 655 F.2d 938, 941-942 (9th Cir. 1981).

When a motion to dismiss attacks the existence of subject matter jurisdiction in fact, the court is not restricted to the face of the pleadings, but may review evidence, such as affidavits and testimony, to resolve factual disputes concerning the existence of jurisdiction. Federal Deposit Ins. Corp., 885 F.2d at 635-36; McCarthy v. United States, 850 F.2d 558, 560 (9th Cir. 1988), cert. denied, 489 U.S. 1052 (1989).

IV

"Under Article III, § 2 of the Constitution, the federal courts have jurisdiction over [a] dispute . . . only if it is a 'case' or 'controversy.' This is a 'bedrock requirement.'" Raines v. Byrd, 521 U.S. 811, 818, 117 S.Ct. 2312, 2317, 138 L.Ed.2d 849 (1997)(citing Valley Forge Christian College v. Americans United for Separation of Church and State, 454 U.S. 464, 471, 102 S.Ct. 752, 757-58, 70 L.Ed.2d 700 (1982)). "'No principle is more fundamental to the judiciary's proper role in our system of government than the constitutional limitation of federal-court jurisdiction to actual cases or controversies.'" Raines, 521 U.S. at 818, 117 S.Ct. At 2317 (quoting Simon v. Eastern Ky. Welfare Rights Organization, 426 U.S. 26, 37, 96 S.Ct. 1917, 1924, 48 L.Ed.2d 450 (1976)).

"One element of the case-or-controversy requirement is that . . . [the] complaint . . . establish that [plaintiff] ha[s] standing to sue." Raines, 521 U.S. at 818, 117 S.Ct. At 2317; Lujan v. Defenders of Wildlife, 504 U.S. 555, 561, 112 S.Ct. 2130, 2136-37, 119 L.Ed.2d 351 (1992). "The standing inquiry focuses on whether the plaintiff is the proper party to bring this suit, although that inquiry 'often turns on the nature and source of the claim asserted.'" Raines, 521 U.S. at 818, 117 S.Ct. at 3317 (citations omitted). To meet the standing

requirements of Article III,

> a plaintiff must show (1) [he] has suffered an "injury in fact" that is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) the injury is fairly traceable to the challenged action of the defendant; and (3) it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision. [FN 4]

Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc., 528 U.S. 167, 180-81, 120 S.Ct. 693, 704, 145 L.Ed.2d 610 (2000); Bennett v. Spear, 520 U.S. 154, 162, 117 S.Ct. 1154, 1161, 137 L.Ed.2d 281 (1997); Lujan, 504 U.S. at 560-61, 112 S.Ct. At 2136. Moreover, the party seeking to invoke the court's jurisdiction has the burden of establishing standing. Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 103-04, 118 S.Ct. 1003, 1017, 140 L.Ed.2d 210 (1998); Lujan, 504 U.S. at 561, 112 S.Ct. At 2136. "Because standing . . . pertain[s] to a federal court's subject-matter jurisdiction under Article III, [it is] properly raised in a motion to dismiss under Federal Rules of Civil Procedure 12(b)(1) . . . ." White, 227 F.3d at 1242.

A review of the First Amended Complaint shows that plaintiff's allegations are insufficient to confer subject matter jurisdiction on this Court. First, plaintiff does not allege that he has suffered an injury "legally and judicially cognizable. This requires, among other things, that the plaintiff have suffered 'an invasion of a legally protected interest which is . . . concrete and particularized.'" Raines, 521 U.S. at 818, 117 S.Ct. at 2317 (quoting Lujan, 504 U.S. at 560-61, 112 S.Ct. at 2136);

Warth v. Seldin, 422 U.S. 490, 499, 95 S.Ct. 2197, 2205, 45 L.Ed.2d 343 (1975); see also LaFargue v. Supreme Court of Louisiana, 634 F.2d 315, 315-316 (5th Cir.)(plaintiff's claim that Louisiana Supreme Court is derelict in duty with respect to civil litigation does not present case or controversy where complaint fails to charge denial of plaintiff's own constitutional rights), cert. denied, 452 U.S. 939 (1981). In his first cause of action, for example, many of plaintiff's claims are made on behalf of the Catholic Church, not plaintiff, and plaintiff does not, and cannot, claim that he has been injured by the federal defendants' allegedly unconstitutional actions toward the Catholic Church. Likewise, in his second cause of action, plaintiff alleges the funding of secret CIA drug experiments, but does not allege a personal injury stemming from these experiments.

Second, as to those claims that arguably may pertain to plaintiff personally, such as the claim that plaintiff was "attacked" by defendants Clinton, Gore and the United States, such claims are "wholly insubstantial" and "obviously frivolous," and "federal courts are without power to entertain claims . . . if they are 'so attenuated and unsubstantial as to be absolutely devoid of merit,' 'wholly insubstantial,' 'obviously frivolous,' 'plainly unsubstantial,' or 'no longer open to discussion.'" Hagans v. Lavine, 415 U.S. 528, 536-37, 94 S.Ct. 1372, 1379, 39 L.Ed.2d 577 (1974)(citations omitted); Bell v. Hood, 327 U.S. 678, 682-83, 66 S.Ct. 773, 776, 90 L.Ed. 939 (1946); Franklin v. Murphy, 745 F.2d 1221, 1227 n. 6 (9th Cir. 1984); see also O'Brien v. United States Dep't of Justice, 927 F.Supp. 382, 384-85 (D.Ariz. 1995)(claims that defendants, including the United States Department of Justice, Farmer's Insurance Company, Janet Reno, Neil Diamond, Nancy Reagan, The Church of Latter Day Saints and the

Phoenix Suns installed equipment on plaintiff's phone lines and contaminated her with "vile germs" were "so bizarre and delusional that they are wholly insubstantial and cannot invoke this Court's jurisdiction"), affirmed by, 76 F.3d 387 (9th Cir. 1996)(Table). Similarly, plaintiff's claim that defendants Clinton, Gore and the United States have violated his First Amendment rights by "intentionally classif[ying]" all official inquiries into this mission lands matter as "top secret and confidential" under the CIPA is also "wholly insubstantial" and "obviously frivolous." The CIPA, 18 U.S.C. § App. 3, applies only in criminal trials, not to general requests for government information. United States v. Pappas, 94 F.3d 795, 799 (2d Cir. 1996).

Nor does plaintiff have standing as a federal taxpayer. (Indeed, plaintiff appears to concede this point, stating in his Opposition that he is not suing as a taxpayer. See Opposition at 3:5) To demonstrate taxpayer standing, a plaintiff must:

> [First,] allege the unconstitutionality only of exercises of congressional power under the taxing and spending clause of Art. I, § 8, of the Constitution . . . . Second [], the taxpayer . . . must show that the challenged enactment exceeds specific constitutional limitations imposed upon the exercise of the congressional taxing and spending power and not simply that the enactment is generally beyond the powers delegated to Congress by Art. I, § 8.

Flast v. Cohen, 392 U.S. 83, 102-03, 88 S.Ct. 1942, 1954, 20 L.Ed.2d 947 (1968); Valley Forge Christian College, 454 U.S. at 480, 102 S.Ct. At 762; see also United States v. Richardson,

418 U.S. 166, 175, 94 S.Ct. 2946, 2945-46, 41 L.Ed.2d 678 (1974)("[Plaintiff] makes no claim that appropriated funds are being spent in violation of a 'specific constitutional limitation upon the . . . taxing and spending power. . . ' Rather, he asks the courts to compel the Government to give him information on precisely how the CIA spends its funds. Thus, there is no 'logical nexus' between the asserted status of taxpayer and the claimed failure of the Congress to require the Executive to supply a more detailed report of the expenditures of that agency." (citation omitted)).

Here, plaintiff's complaint suffers from the exact same deficiencies as the complaint in Richardson: plaintiff lacks standing because he "seek[s] 'to employ a federal court as a forum in which to air his generalized grievances about the conduct of government[,]'" and such claims are insufficient to confer standing. Richardson, 418 U.S. at 175-78, 94 S.Ct. at 2946-47; see also Allen v. Wright, 468 U.S. 737, 754, 104 S.Ct. 3315, 3326, 82 L.Ed.2d 556 (1984)("[A]n asserted right to have the Government act in accordance with the law is not sufficient, standing alone, to confer jurisdiction on a federal court."). [FN 5]

V

The federal defendants request sanctions under Rule 11, arguing that the plaintiff has filed a frivolous complaint. Federal Rule of Civil Procedure 11 provides:

> (a) Every pleading, written motion, and other paper shall be signed by at least one attorney of record . . . , or, if the party is not represented by an attorney, shall be signed by the party . . .

> (b) By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge. . .
>
> (1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
>
> (2) the claims . . . are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

Fed. R. Civ.P. 11(a)-(b).

The federal defendants, however, have not properly noticed their request under Rule 11(c), which requires, inter alia, that the motion "be made separately from other motions or requests," "describe the specific conduct alleged to violate [Rule 11] subdivision (b), " and "be served as provided in Rule 5 . . . ." Thus, their request for Rule 11 sanctions must be denied. Because this Court has authority to consider whether there has been a violation of Rule 11 regardless of the dismissal of the underlying action, Cooter & Gell v. Hartmarx Corp., 496 U.S. 384, 395, 110 S.Ct. 2447, 2455, 110 L.Ed.2d 359 (1990); Willy v. Coastal Corp., 503 U.S. 131, 137, 112 S.Ct. 1076, 1080-81, 117 L.Ed.2d 280 (1992), and even if it "lacked subject matter jurisdiction [initially] over [plaintiff's] complaint

[,]" this Court may, nevertheless, impose Rule 11 sanctions for filing a frivolous complaint. Branson v. Nott, 62 F.3d 287, 293 (9th Cir.), cert. denied, 516 U.S. 1009 (1995) (citing Willy, 503 U.S. at 138, 112 S.Ct. At 1080-81). Thus, federal defendants' request for Rule 11 sanctions is denied without prejudice to renewal upon a properly noticed motion. Barber v. Miller, 146 F.3d 707, 710-11 (9th Cir. 1998).

RECOMMENDATION

For the foregoing reasons, IT IS RECOMMENDED that the Court issue an Order: (1) Approving and adopting this Report and Recommendation; (2) dismissing this action for lack of subject matter jurisdiction, and entering Judgment accordingly; and (3) denying without prejudice the federal defendants' request for Rule 11 sanctions.

DATE: January 16, 2001

S/ Rosalyn M. Chapman
ROSALYN M. CHAPMAN
UNITED STATES
MAGISTRATE JUDGE

Footnote 1: The plaintiff claimed his knowledge of the alleged constitutional violations "developed out of a chance meeting with a nervous French poodle named Max, who witnessed the brutal murder of a young black prince and shooting of a Hawaiian princess in Las Vegas, Nevada on September 17, 1995." Complaint at 8 n. 11.

Footnote 2: See FAC, ¶¶ 24-46.

Footnote 3: See FAC, ¶¶ 47-68.

Footnote 4: The Article III standing requirements are "especially rigorous when reaching the merits of the dispute would force [a district court] to decide whether an action taken by one of the other two branches of the Federal Government was unconstitutional." Raines, 521 U.S. at 810-20, 117 S.Ct. at 2317-18.

Footnote 5: Because this Court has found that plaintiff lacks standing to pursue this action, it is unnecessary to address the numerous other problems with plaintiff's First Amended Complaint, such as defendants' sovereign immunity and absolute judicial, legislative and presidential immunity. Suffice it to say that, if this Court were not required to dismiss plaintiff's First Amended Complaint for lack of subject matter jurisdiction, it would dismiss it under Rule 12(b)(6) for failure to state a claim upon which relief can be granted.

PROPOSED ORDER

Caption:

Charles Ernest Hill, Plaintiff, v. William J. Clinton, in his capacity as President of the United States of America; Albert Gore; The United States of America; Spencer Abraham; Daniel Akaka; Wayne Allard; John Ashcroft; Max Baucus; Evan Bayh; Robert Bennett; Joseph Biden Jr.; Jeff Bingaman; Christopher Bond; Barbara Boxer; John Breaux; Sam Brownback; Richard Bryan; Jim Bunning; Conrad Burns; Robert Byrd; Ben Nighthorse Campbell; Lincoln Chafee; Max Cleland; Thad Cochran; Susan Collins; Kent Conrad; Larry Craig; Mike Crapo; Thomas Daschle; Mike Dewine; Christopher Dodd; Pete Domenici; Byron Dorgan; Richard Durbin; John Edwards; Mike Enzi; Russell Feingold; Dianne Feinstein; Peter Fitzgerald; William Frist; Slade Gorton; Bob Grahm; Phil Gramm; Rod Grams; Chuck Grassley; Judd Gregg; Charles Hagel; Tom Harkin; Orrin Hatch; Jesse Helms; Ernest Hollings; Tim Hutchinson; Kay Bailey Hutchinson; James Inhofe; Daniel Inouye; James Jeffords; Tim Johnson; Edward Kennedy; Robert Kerry; John Kerry; Herb Kohl; Jon Kyl; Mary Landrieu; Frank Lautenberg; Patrick

Leahy; Carl Levin; Joseph Lieberman; Blanche Lincoln; Trent Lott; Richard Lugar; Connie Mack; John McCain; Mitch McConnell; Barbara Mikulski; Zell Miller; Daniel Moynihan; Frank Murkowski; Patty Murray; Don Nichols; Jack Reed; Harry Reid; Charles Robb; Pat Roberts; John Rockefeller IV; William Roth Jr.; Rick Santorum; Paul Sarbanes; Charles Schumer; Jeff Sessions; Richard Shelby; Bob Smith; Gordon Smith; Olympia Stone; Arlen Specter; Ted Stevens; Craig Thomas; Fred Thompson; Strom Thurmond; Robert Torricelli; George Voinovich; John Warner; Paul Wellstone; Ron Wyden; The United States Senate; The United States House of Representatives; The United States Supreme Court; William Rehnquist; John Paul Stevens; Sandra Day O'Connor; Antonin Scalia; Anthony Kennedy; David Souter; Clarence Thomas; Ruth Bader Ginsburg; Stephen Breyer; The California Supreme Court; Ronald George; Stanley Mosk; Joyce Kennard; Marvin Baxter; Kathryn Werdegar; Ming Chin; Janice Brown and DOES 1-10, inclusive, Defendants.

Issuing Court: United States District Court
Central District of California

Judge: Honorable Magistrate Judge Rosalyn M. Chapman

Case No.: SACV 00-0859-GLT(RC)

Date of Filing: January 16, 2001
Date of Entry: N/A - proposed order accompanied Report and Recommendation

[PROPOSED] ORDER ADOPTING REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

"Pursuant to 28 U.S.C. § 636, the Court has reviewed the First Amended Complaint and other papers along with the attached Report and Recommendation of United States Magistrate Judge Rosalyn M. Chapman, and plaintiff's objections, and has made a de novo determination.

IT IS ORDERED that (1) the Report and Recommendation is approved and adopted; (2) Judgment shall be entered dismissing this action for lack of subject matter jurisdiction; and (3) the federal defendants' request for Rule 11 sanctions is denied without prejudice.

IT IS FURTHER ORDERED that the Clerk shall serve copies of this Order, the Magistrate Judge's Report and Recommendation and Judgment by the United

States mail on the parties."

DATED:_____

_____
GARY L. TAYLOR
UNITED STATES
DISTRICT JUDGE

PROPOSED JUDGMENT

Caption: Charles Ernest Hill, Plaintiff, v. William J. Clinton, in his capacity as President of the United States of America; Albert Gore; The United States of America; Spencer Abraham; Daniel Akaka; Wayne Allard; John Ashcroft; Max Baucus; Evan Bayh; Robert Bennett; Joseph Biden Jr.; Jeff Bingaman; Christopher Bond; Barbara Boxer; John Breaux; Sam Brownback; Richard Bryan; Jim Bunning; Conrad Burns; Robert Byrd; Ben Nighthorse Campbell; Lincoln Chafee; Max Cleland; Thad Cochran; Susan Collins; Kent Conrad; Larry Craig; Mike Crapo; Thomas Daschle; Mike Dewine; Christopher Dodd; Pete Domenici; Byron Dorgan; Richard Durbin; John Edwards; Mike Enzi; Russell Feingold; Dianne Feinstein; Peter Fitzgerald; William Frist; Slade Gorton; Bob Grahm; Phil Gramm; Rod Grams; Chuck Grassley; Judd Gregg; Charles Hagel; Tom Harkin; Orrin Hatch; Jesse Helms; Ernest Hollings; Tim Hutchinson; Kay Bailey Hutchinson; James Inhofe; Daniel Inouye; James Jeffords; Tim Johnson; Edward Kennedy; Robert Kerry; John Kerry; Herb Kohl; Jon Kyl; Mary Landrieu; Frank Lautenberg; Patrick

Leahy; Carl Levin; Joseph Lieberman; Blanche Lincoln; Trent Lott; Richard Lugar; Connie Mack; John McCain; Mitch McConnell; Barbara Mikulski; Zell Miller; Daniel Moynihan; Frank Murkowski; Patty Murray; Don Nichols; Jack Reed; Harry Reid; Charles Robb; Pat Roberts; John Rockefeller IV; William Roth Jr.; Rick Santorum; Paul Sarbanes; Charles Schumer; Jeff Sessions; Richard Shelby; Bob Smith; Gordon Smith; Olympia Stone; Arlen Specter; Ted Stevens; Craig Thomas; Fred Thompson; Strom Thurmond; Robert Torricelli; George Voinovich; John Warner; Paul Wellstone; Ron Wyden; The United States Senate; The United States House of Representatives; The United States Supreme Court; William Rehnquist; John Paul Stevens; Sandra Day O'Connor; Antonin Scalia; Anthony Kennedy; David Souter; Clarence Thomas; Ruth Bader Ginsburg; Stephen Breyer; The California Supreme Court; Ronald George; Stanley Mosk; Joyce Kennard; Marvin Baxter; Kathryn Werdegar; Ming Chin; Janice Brown and DOES 1-10, inclusive, Defendants.

Issuing Court: United States District Court
Central District of California

Judge:	Honorable Magistrate Judge Rosalyn M. Chapman
Case No.:	SACV 00-0859-GLT(RC)
Date of Filing:	January 16, 2001
Date of Entry:	N/A - proposed judgment accompanied Report and Recommendation

[PROPOSED] JUDGMENT

"Pursuant to the Order of the Court approving the findings, conclusions and recommendations of United States Magistrate Judge Rosalyn M. Chapman,

IT IS ADJUDGED that Judgment be entered dismissing the action for lack of subject matter jurisdiction.

DATED:_____

_____
GARY L. TAYLOR
UNITED STATES
DISTRICT JUDGE

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